Richard Selwyn Sharpe

YEAR OF CALL 1985

Email: empcom@9sjs.com

AREAS OF EXPERTISE

Business and Property Group



CV

Specialist Areas of Practice

Banking, Building & Construction, Commercial Litigation, Company, Insolvency, Insurance, Intellectual Property, Landlord & Tenant, Partnership, Probate, Professional Negligence, Property, Trusts & Settlements,

Profile

Richard joined chambers in June 2014 from St. James's Chambers, Manchester. He practises in general Chancery and Commercial law with an emphasis on property, wills, trusts, company and insolvency law.

Particular property expertise includes: Landlord and Tenant (commercial and residential), boundaries and easements, rivers/riparian rights, restrictive covenants, land options, development contracts, mortgages, agricultural holdings, nuisance claims, public access to the countryside (including applications to modify the definitive map), highways and planning. Commons and Manorial Rights. Regularly instructed in cases before the Upper Chamber (Lands Tribunal). Richard has been recently instructed in two landmark cases involving Rights of Way in the Court of Appeal (Bee v Thompson and Oliver v Symons).

Company law including director's breaches of duty, director's disqualification and voidable transactions.

Sale and Carriage of Goods, Consumer Credit, Insurance and Agency law.

Restraint of Trade and business secrets. Intellectual Property. Partnership Law.

Professional Negligence, (Solicitors, Accountants, Insolvency practitioners, Architects, Surveyors and Insurance Brokers).

Wills and Trusts: contentious and non-contentious, Inheritance Act claims. Removal of Trustees. Increasing Court of Protection practice.

Regularly instructed in family partnership disputes, including those concerning agricultural property, residential property portfolios and family businesses.

Door tenant at New Square Chambers, Lincoln's Inn.

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Richard accepts Licensed Access instructions from surveyors and accountants. He lectures regularly to solicitors on Insolvency Law, Rights of Way, Wills, Probate and Proprietary Estoppel.

Richard lives in North Yorkshire.

Notable Cases

- Ord v Upton [2000] Ch 352 CA (Insolvency: rights of bankrupt to damages for personal injury): and see article: 2001 Insolvency Lawyer
- Stephenson v Johnson 2000 EGCS (Boundary dispute: implied boundary agreement)
- Dodsworth v Hulme [2003] EWHC 22 (Ch) Lawtel 30.1.03 (Boundary dispute: construction of conveyance and plan)
- Zyxel Communications COPR, Bluebell Overseas Limited v Fairbridge Communications Limited [2004] D Foskett KC (Construction of Compromise agreement) Lawtel AC0103710
- Halpern v Halpern [2006] EWHC 1728 Comm [2006] 3 AER 113 (a party could not avoid a contract procured by duress in circumstances where he could not offer the other party restitutio in intergrum or counter restitution)
- Halpern v Halpern [2007] EWCA 603 (Comm) The Times 14th May 2006 On appeal from the decision of Christopher Clarke J (2006) EWHC 603 [2006] 2 All ER (Comm) 251 ("Halpern No 1") the Court of Appeal held that under Art 4(2) of the Rome Convention English Law was the applicable law to the compromise agreement but that Jewish law might be relevant to interpretation. On appeal from the decision of Nigel Teare KC (2006) EWHC 172 [2006] 3 WLR 946 the Court held that rescission for duress should be no different in principle from rescission for other vitiating factors. However, the practical effect of counter-restitution would depend on the circumstances of each case. If the defendants were able to establish at trial that the compromise was procured by duress then it would be suprising if the law could not provide a suitable remedy but that would be a matter for the trial judge to decide. It was not necessarily the case that the party wishing to obtain rescission for duress had to be able to provide counter-restitution. Richard acted for the Appellants/Defendants.
- Crowe & Heaton v Massey & Massey Land Tribunal (Nigel Rose) (2008) LP/34/2006 Application to discharge restrictive covenant.
- -Brookfield v Drury & Whitehead LTL 6/3/2009 [2009] The sale of real property, including a strip of land which the original owner had intended to keep, was not capable of legal rectification in the original owner's favour on the basis that the transfer of the strip was a mistake. The property as sold clearly included the disputed strip, and the purchasers were entitled to rely upon their ignorance of the original owner's uncommunicated desire to retain the strip.
- Thompson v Bee [2009] EWCA Civ 1212 The Times 3rd December 2009 2010 2 WLR 1355 Right of way by will expressed to be at "all times and for all purposes". CA adopted single transaction approach to construction to ascertain rights of beneficiaries under Will. Appellant's claim that right not limited to agricultural purposes upheld. Respondent's claim to injunction restraining use of way to access three houses upheld but court left open question whether could use way for less than three houses. Richard was instructed on behalf of the Defendant/Appellant Mr Thompson at first instance and was led by James Thom KC on the appeal.
- Re Haythornwaite deceased Richards J 24 Nov 2010. Acted for administrators and beneficiaries of a deceased estate and successfully resisted claim that farm comprising bulk of estate had been gifted to Defendant as a "valid donatio mortis causa".
- Oliver v Symons EWHC (Ch), [2011] All ER (D) 250 May. Rights of way. Construction of reservation. Extent of way. Whether claimants abandoning right of way as a consequence of relevant transfer. Whether Defendants interfered with Claimants' right of way.

- Oliver v Symons [2012] EWCA Civ 267 led by James Thom KC
- In the matter of E A Scott 1991 Children's settlement No.1 sub nom Andrew Herbert Scott v Martin Leslie Scott [2012] Ch D (Leeds) EWHC 2397 (Ch) Application to remove trustee of family trust
- Sterling Investment Properties v Valli Forecourts Ltd [2013] Chancery Division Leeds: (HH Judge Behrens). Acted for Defendant resisting claim that right of way over commercial property extinguished by abandonment. Claim settled during trial with successful outcome for Defendant.
- *J.J Metcalfe Ltd v James Dennison* Manchester TCC: HH Judge Raynor KC 6.12.13 LTL5/3/2014 Acted for successful Defendant in application to strike out claim by builder for unpaid fees/in restitution on grounds that claim statute barred. Court held cause of action arose when work carried out by claimant and not 28 days days after the service of the claimant's invoice.
- Lothian v Dixon [2014] Ch D, HH Judge Kaye KC. Acted for successful Claimants in proprietary estoppel claim. Claimants awarded full estate of deceased on basis of promise to leave them her estate in equal shares if 1st Claimant left her husband (2nd Claimant) at the family home in Scotland to care for her in her last illness and to help run the deceased's hotel in Scarborough.
- *Taylor v Bell* Leeds Co Court 16.2.15 HH Judge Behrens. [2015] All ER (D) 208 Application to vary consent order for periodical payments under the Inheritance (Provision for Family and Dependants) Act 1975 by illegitimate son of deceased to fund further three years of education.
- Gateway Plaza Ltd v Sumit Ramteke. Chester County Ct . HH Judge Halbert 5.6.15. Richard acted for the successful Defendant in a claim for damages for breach of contract to buy a new build flat on a development in Barnsley. Judge held Claimant in breach of contract at time served notice to complete as it could not provide NHBC certificate. He dismissed the claim for damages and ordered the return of the deposit to the Defendant plus interest and costs on the standard basis.
- Blu-Sky Solutions Ltd v Be Caring Ltd [2021] EWHC 2619 (Comm) Onerous and unusual penalty clauses in telecoms contract.

Other Recent Cases

Acted for successful applicant in Arbitration concerning right of way reserved as part of a development contract and obligation on respondent to construct a new road to an agreed specification. Arbitrator held respondent in breach and liable to pay applicant's costs in full.

Acted for beneficiaries of family trust in claim for breach of trust against trustees (one of whom was an IFA). Dispute settled at Mediation.

Acted for graziers of Common land in Arbitration concerning graziers' entitlement to stewardship payments.

Acted for commercial landlord in proceedings for forfeiture of lease against tenant carrying out waste processing in breach of lease and in breach of environmental legislation.

Quotes

Commercial, Banking, Insolvency and Chancery Law: Leading Junior Band 2Confident and decisive - Legal 500 2020

Commercial, Banking, Insolvency and Chancery Law ranked Tier 1 Noted for his experience in rights of way matters.



- Legal 500 2019

'Known for acting in Rights of Way cases.'

- Legal 500, 2017

'Recommended for insolvency matters.'

- Legal 500, 2017

"He immediately 'gets' the issue at hand."

- Legal 500, 2016

He immediately gets to the issue and his pleadings are very concise.

- Legal 500, 2016

"Cuts through the detail and sees the main issues very quickly... Inspires confidence because of his significant experience and ability."

- Legal 500, 2015

"Generates confidence in his advice... he explores all lines of argument."

- Legal 500 2014

"Knowledgeable and assured"

- Legal 500 2014